## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Lisa Christian Braswell, \$ 272815,	)	C/A No. 9:07-754-CMC-GCK
Petitioner,	)	OPINION AND ORDER
<b>v.</b>	)	
State of South Carolina and	)	
Judy Anderson, Warden Graham Correctional Institution,	)	
Respondents.	)	

Petitioner, a state prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on March 5, 2007. Respondents filed a motion for summary judgment on May 14, 2007. By order filed May 16, 2007, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if she failed to adequately respond to the motion. Petitioner filed her response on June 4, 2007.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge George C. Kosko.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) stating that "in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." (quoting Fed. R. Civ. P. 72 advisory committee's

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note).

Based on his review of the record, the Magistrate Judge has recommended that Petitioner's Petition [1] be dismissed without prejudice, and that Respondents' motion for summary judgment [8] be denied to the extent it seeks dismissal of this petition with prejudice. The Magistrate Judge advised Petitioner of her right to file objections to the Report and the serious consequences if she failed to do so. Petitioner has filed no objections and the time for doing so has expired.

After reviewing the Petition, the motion, the response, the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

**ORDERED** that Respondents' motion for summary judgment is **DENIED** to the extent it seeks dismissal of this petition with prejudice, and this action is *dismissed without prejudice*.

IT IS SO ORDERED.

s/ Cameron McGowan Currie CAMERON MCGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina September 4, 2007

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